

Message Text

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ACTION NEA-09

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FM AMEMBASSY DACCA

TO SECSTATE WASHDC NIACT IMMEDIATE 5567

INFO AMEMBASSY ISLAMABAD

AMEMBASSY NEW DELHI

AMEMBASSY LONDON

AMEMBASSY KATHMANDU

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TAGS: PINT, PGOV, BG

SUBJECT: CONSTITUTION IS CHANGED: MUJIB NOW PRESIDENT

SUMMARY: WITH PASSAGE JANUARY 25 OF THE CONSTITUTION (FOURTH AMENDMENT) ACT, 1975, SHEIKH MUJIBUR RAHMAN IS NOW THE PRESIDENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH. THE SWEEPING CONSTITUTIONAL AMENDMENT WAS PASSED WITHOUT DISCUSSION FOLLOWING THE WALKOUT OF THE MINUSCULE OPPOSITION. THE AMENDMENT ESTABLISHED A SYSTEM OF PRESIDENT, VICE PRESIDENT, AND A COUNCIL OF MINISTERS WHO DO NOT NECESSARILY HAVE TO BE PARLIAMENTARIANS. AMENDMENT ALSO PROVIDES FOR THE ESTABLISHMENT, AT THE DISCRETION OF THE PRESIDENT, OF A SINGLE NATIONAL PARTY AND THE BANNING OF ALL OTHER POLITICAL PARTIES. WITH PASSAGE OF ACT, MUJIB BECAME PRESIDENT AUTOMATICALLY FOR A FIVE-YEAR TERM. AMENDMENT EXTENDS THE LIFE OF JATIYO SANGSAD, AS WELL, FOR FIVE YEARS FROM PASSAGE. MUJIB JUSTIFIES CHANGE IN SYSTEM

AS NECESSARY TO COPE WITH PROBLEMS OF COUNTRY AND ILL DISCIPLINE OF EDUCATED CLASS. NEW COUNCIL OF MINISTERS IS EXPECTED TO BE ANNOUNCED
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NEXT WEEK. JATIYO SANGSAD ALSO TODAY ROUTINELY APPROVED EMERGENCY

POWERS BILL, THUS RATIFYING PRESIDENT'S ACTION TAKEN LAST MONTH.
END SUMMARY.

1. IN A WELL-ORCHESTRATED TWO-HOUR SESSION OF THE JATIYO SANGSAD MORNING OF JANUARY 25, THE BANGLADESH PARLIAMENT FIRST PASSED AN EMERGENCY POWERS BILL RATIFYING PRESIDENTIAL ORDER OF LAST MONTH, THE QUICKLY INTRODUCED AND PASSED THE FOURTH CONSTITUTIONAL AMENDMENT ESTABLISHING A PRESIDENTIAL SYSTEM. THE OPPOSITION, NOT ALLOWED TO DISCUSS THE PROPOSED AMENDMENT, WALKED OUT SO THAT ON BOTH READINGS THE AMENDMENT PASSED 292 TO NONE. MUJIB, WHO AUTOMATICALLY BECAME PRESIDENT UPON SIMULTANEOUS PASSAGE AND COMMENCEMENT OF THE ACT, WAS TO BE SWORN IN AS PRESIDENT IN A BRIEF PRIVATE CEREMONY IMMEDIATELY FOLLOWING ADJOURNMENT SINE DIE OF THE JATIYO SANGSAD AT NOON. PRINCIPAL CHANGES IN CONSTITUTION ARE AS FOLLOWS:

2. THE PRESIDENT AND VICE PRESIDENT. PART IV, CHAPTER I, THE EXECUTIVE, AND CHAPTER II, THE PRIME MINISTER AND CABINET, HAVE BEEN REPLACED WITH TWO NEW CHAPTERS ON THE PRESIDENT AND VICE PRESIDENT, AND ON THE COUNCIL OF MINISTERS. THE PRESIDENT (AND HEAD OF STATE) IS TO BE CHOSEN BY DIRECT ELECTION, HOWEVER, A SPECIAL PROVISION IN THE LAST

ARTICLE OF THE AMENDMENT ACT DIRECTS THAT THE INCUMBENT PRESIDENT (MOHAMMADULLAH) CEASES TO BE PRESIDENT UPON COMMENCEMENT OF THE ACT AND MUJIBUR RAHMAN BECOMES PRESIDENT AND ENTERS INTO OFFICE AS IF ELECTED TO THE OFFICE. THE VICE PRESIDENT SHALL BE APPOINTED BY THE PRESIDENT. TERM OF OFFICE OF BOTH IS FIVE YEARS. NEITHER CAN BE A MEMBER OF PARLIAMENT (MUJIB VACATED HIS SEAT TODAY). AMENDMENT PROVIDES FOR THE IMMUNITY OF PRESIDENT AND VICE PRESIDENT FOR OFFICIAL ACTS, FOR THE IMPEACHMENT

OF THE PRESIDENCY BY PARLIAMENT, FOR THE REMOVAL OF THE PRESIDENT BY PARLIAMENT ON GROUNDS OF INCAPACITY, AND FOR THE SPEAKER TO BECOME ACTING PRESIDENT SHOULD OFFICES OF BOTH PRESIDENT AND VICE PRESIDENT BE VACANT. ALL EXECUTIVE AUTHORITY OF THE REPUBLIC IS VESTED IN THE PRESIDENT AND HE HAS FULL POWERS TO GRANT PARDONS AND COMMUTE SENTENCES.

3. THE COUNCIL OF MINISTERS. A COUNCIL OF MINISTERS, APPOINTED BY THE PRESIDENT AND HOLDING OFFICE AT HIS PLEASURE, SHALL "AID AND ADVISE LIMITED OFFICIAL USE

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THE PRESIDENT IN THE EXERCISE OF HIS FUNCTION" AND THE NATURE OF THEIR

ADVICE SHALL NOT BE INQUIRED INTO BY ANY COURT. A PRIME MINISTER AND SUCH OTHER MINISTERS, MINISTERS OF STATE, AND DEPUTY MINISTERS DEEMED NECESSARY MAY BE APPOINTED FROM AMONG MPS OR PERSONS QUALIFIED TO BE ELECTED MPS. MINISTERS OF STATE AND DEPUTY MINISTERS, HOWEVER, WILL NOT

BE MEMBERS OF THE COUNCIL. EVERY MINISTER SHALL HAVE THE RIGHT TO SPEAK

IN AND PARTICIPATE IN PARLIAMENTARY PROCEDURES BUT ONLY THOSE WHO ARE
MPS WILL HAVE THE RIGHT TO VOTE.

4. LOCAL GOVERNMENT. THE AMENDMENT ELIMINATES CHAPTER III OF THE
CONSTITUTION, ON LOCAL GOVERNMENT, AND MAKES NO SUBSTITUTION.

5. THE PARLIAMENT. AMENDMENT ACT RESTRICTS EVEN MORE THE ABILITY OF
MPS TO REGISTER PROTEST AGAINST GOVERNMENT. IN ADDITION TO STILL
REQUIRING AN MP TO VACATE HIS SEAT IF HE RESIGNS FROM HIS POLITICAL
PARTY OR VOTES AGAINST IT, AMENDMENT NOW SPECIFIES THAT IF AN MP
ABSTAINS FROM VOTING OR IS ABSENT WITHOUT HIS PARTY'S PERMISSION,
"HE SHALL BE DEEMED TO HAVE VOTED AGAINST THAT PARTY". THE REQUIREMENT

THAT PARLIAMENT MEET AGAIN WITHIN 120 DAYS OF AN ADJOURNMENT IS
ELIMINATED; AMENDMENT NOW REQUIRES ONLY THAT PARLIAMENT HAVE AT LEAST
TWO SESSIONS IN EVERY YEAR.

6. JUDICIARY. THE PRESIDENT NOW HAS POWERS TO APPOINT ALL JUDGES AND
MAGISTRATES WITHOUT CONSULTATION WITH EITHER THE CHIEF JUSTICE OR THE
SUPREME COURT, AS PREVIOUSLY REQUIRED. THE AMENDMENT IN ADDITION
REMOVES TRIBUNALS FROM THE HIGH COURT DIVISION'S SUPERINTENDENCE
AND CONTROL; AND VESTS IN THE PRESIDENT, INSTEAD OF THE SUPREME
COURT, THE CONTROL AND DISCIPLINE OF PERSONS IN THE JUDICIAL
SERVICE AND OF MAGISTRATES. HOWEVER, AMENDMENT ADDS A SECTION
SPECIFYING THAT THOSE IN JUDICIAL

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SERVICE AND MAGISTRATES "SHALL BE INDEPENDENT IN THE EXERCISE OF THEIR JUDICIAL FUNCTIONS. THE PRESIDENT MAY ALSO NOW REMOVE A JUDGE FROM OFFICE ON GROUNDS OF MISBEHAVIOR OR INCAPACITY, AFTER A HEARING, WITHOUT THE PREVIOUSLY REQUIRED TWO-THIRDS MAJORITY CONCURRENCE OF PARLIAMENT.

7. FUNDAMENTAL RIGHTS. ARTICLE 1W REGARDING THE POWERS OF THE HIGH COURT DIVISION TO ISSUE ORDERS AND DIRECTIONS HAS BEEN AMENDED TO OMIT

ANY REFERENCE TO ENFORCEMENT OF ANY OF THE FUNDAMENTAL RIGHTS CONFERRED

BY THE CONSTITUTION. MOREOVER, IN PART II OF THE CONSTITUTION, ON FUNDAMENTAL PRINCIPLES OF THE STATE, ARTICLE 11 HAS BEEN AMENDED TO ELIMINATE REFERENCE TO ENSURING "EFFECTIVE PARTICIPATION BY THE PEOPLE

THROUGH THEIR ELECTED REPRESENTATIVES IN ADMINISTRATION AT ALL LEVELS."

IN PART III ON FUNDAMENTAL RIGHTS, ARTICLE 44 WHICH GUARANTEED THE RIGHT TO MOVE THE SUPREME COURT FOR THE ENFORCEMENT OF FUNDAMENTAL LIMITED OFFICIAL USE

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RIGHTS HAS BEEN REPLACED WITH A NEW ARTICLE BY WHICH "PARLIAMENT MAY BE LAID TO ESTABLISH A CONSTITUTIONAL COURT, TRIBUNAL OR COMMISSION OF THE ENFORCEMENT OF THOSE RIGHTS CONFERRED BY THIS PART."

8. THE NATIONAL PARTY. A NEW PART VIA "THE NATIONAL PARTY" PROVIDES THAT IF THE PRESIDENT IS SATISFIED THAT IT IS NECESSARY TO CARRY OUT THE FUNDAMENTAL PRINCIPLES OF STATE POLICY HE MAY "BY ORDER, DIRECT THAT THERE SHALL BE ONLY ONE POLITICAL PARTY IN THE STATE " (I.E., THE

NATIONAL PARTY). UPON SUCH AN ORDER, ALL POLITICAL PARTIES SHALL STAND

DISSOLVED AND THE PRESIDENT SHALL TAKE THE STEPS TO FORM THE NATIONAL PARTY AND SHALL DETERMINE THE PROGRAM, MEMBERSHIP, ORGANIZATION, DISCIPLINE, FINANCE, AND FUNCTION OF THE PARTY. WHEN THE NATIONAL PARTY IS FORMED, AN MP SHALL CEASE TO BE A MEMBER OF PARLIAMENT UNLESS HE BECOMES A MEMBER OF THE NATIONAL PARTY WITHIN THE TIME LIMIT SET BY THE PRESIDENT. NO PERSON SHALL BE QUALIFIED FOR ELECTION AS PRESIDENT OR MP IF HE IS NOT A CANDIDATE OF THE NATIONAL PARTY, NOR CAN ANY PERSON FORM OR BE A MEMBER OF ANY POLITICAL PARTY OTHER THAN THE NATIONAL PARTY.

9. MUJIB'S SPEECH. FOLLOWING PASSAGE OF THE AMENDMENT, MUJIB ADDRESSED

THE PARLIAMENT, REPEATING HIS THEME OF THE HISTORY AND ILLS OF THE NATION AS JUSTIFICATION FOR THIS "RADICAL" AMENDMENT WHICH HE DESCRIBED AS THE "SECOND REVOLUTION." THE COUNTRY CANNOT BE RUN, HE SAID TO APPLAUSE, "BY THE RULES AND REGULATION OF A COLONIAL ADMINISTRATION." MUJIB'S MAJOR EMPHASIS WAS THAT THE FIVE PERCENT OF THE POPULATION WHO ARE EDUCATED ARE THE CAUSE OF THE CORRUPTION, THE POLITICAL KILLINGS, AND THE CRITICISM OF THE GOVERNMENT THAT HAS MADE SOLUTION OF BANGLADESH'S PROBLEMS DIFFICULT. THE PEOPLE THEMSELVES ARE HARDWORKING AND DISCIPLINED, HE SAID. BUT THE EDUCATED CONFUSE LICENSE WITH LIBERTY, DO NOT TAKE RESPONSIBILITY, AND FOLLOW A FREE STYLE THAT IS INCOMPATIBLE WITH THE DISCIPLINE AND AUSTERITY NECESSARY TO THE FUTURE OF THE COUNTRY. MUJIB EMPHASIZED THAT POPULATION GROWTH MUST BE CONTROLLED, THE COUNTRY

MUST BE COME SELF SUFFICIENT IN FOOD, AND LABOR MUST BE PRODUCTIVE SO THAT BANGLADESH CAN BECOME A NATION WITH SELF ESTEEM RATHER THAN A BEGGER NATION DEPENDENT UPON THE ASSISTANCE OF ITS FRIENDS. HE CALLED UPON THE LIMITED OFFICIAL USE

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MEMBERS OF PARLIAMENT TO JOIN HIM IN HIS EFFORTS TO SOLVE THE PROBLEMS OF THE COUNTRY.

11. COMMENT. IS IS TOO EARLY TO HAVE ANY READING ON PUBLIC REACTION TO THE CHANGE, BUT SO LONG ANTICIPATED AND GENERALLY KNOWN WERE THE MAJOR ELEMENTS OF THE NEW SYSTEM THAT THERE DOES NOT SEEM TO BE ANY SENSE OF SURPRISE IN THE IMMEDIATE AFTERMATH. OF PRINCIPAL CONCERN WILL BE THE COMPOSITION OF THE COUNCIL OF MINISTERS AND A DETERMINATION

OF WHEN AND IF MUJIB DECIDES TO IMPLEMENT HIS NATIONAL PARTY. THE DIPLOMATIC CORPS HAS BEEN CALLED TOGETHER BY THE MFA FOR A MEETING LATE THIS AFTERNOON PRESUMABLY TO RECEIVE REASSURANCES THAT THE CONSTITUTIONAL CHANGE WILL NOT AFFECT BANGLADESH'S FOREIGN POLICY.
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